

County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers. See 86 Ill. Adm. Code 130.435(c). (This is a GIL).

April 29, 2005

Dear Xxxxx:

This letter is in response to your letter dated October 1, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to request information regarding the following three questions:

1. Cook County Motor Fuel Tax- I need a confirmation that this tax is deductible on the Illinois Sales Tax Worksheet for Line 2 form under 'other deductions'. Could you send me a copy of the department's regulation regarding this?
2. What is the 'divisor' for fuel tax gasohol line 8a from the ST-1 Worksheet for Line 2 (after subtracting all motor fuel tax to get my total receipts not including sales tax – I take my number and divide it by the sales tax rate of 1.0875 {location 016-0001-1})? Someone mentioned the divisor should be 1.0700. I am using the wrong divisor?
3. What is the Statue of Limitations for amending Sales & Use Tax Returns? I may have to amend my ST-1 for not including the above mentioned tax in 'other deductions'.

Your attention to this matter is appreciated.

DEPARTMENT'S RESPONSE:

For purposes of the Illinois Retailers' Occupation Tax, the County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers. See 86 Ill. Adm. Code 130.435(c). In addition, please see general information letter ST-03-0064-GIL. The Department's sales tax "Sunshine Letter Rulings" and the Department's regulations may be found on the Department's internet website under the heading "Legal Research."

For information concerning the ST-1 worksheet, please refer in detail to the instructions accompanying the worksheet. Please be advised that the statute of limitations for filing claims for credit is from three to three and one-half years. For example, claims for credit that are filed before July 1, 2004, can go back through January 1, 2001. Please refer to 86 Ill. Adm. Code 130.1501(a)(4).

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk